

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

SHRI Vakratunda Motel, Inc

Petitioner-Appellant,

v.

Tama County Board of Review,

Respondent-Appellee.

ORDER

**Docket No. 09-86-0039
Parcel No. 022+53000-0732000**

On September 24, 2009, the above captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.47A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant, SHRI Vakratunda Motel, Inc., was represented by Attorney Michael J. Green of Brown, Winick PC, Des Moines, Iowa. The Tama County Board of Review designated County Attorney Brent Heeren as its legal representation. The Appeal Board having reviewed the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

SHRI Vakratunda Motel, Inc (SHRI) owner of a commercial property locally known as Super 8 Motel, located at 207 Highway 30 West, Toledo, Iowa, appeals from the Tama County Board of Review regarding its 2009 property assessment. The 2009 commercial assessment is allocated as follows: \$59,600 in land value, and \$834,950 in improvement value, for a total assessment of \$894,550. The 2009 assessment reflects an \$89,460 reduction from the 2008 assessment of \$984,010 due to a county-wide equalization by the assessor factoring for decreases in commercial value.

SHRI claimed that the assessment is not equitable under Iowa Code section 441.37(1)(a). In an attachment to the appeal form, and considered a part of the appeal, SHRI also claimed that the property is assessed for more than the value authorized by law under section 441.37(1)(b).

The Board of Review left the value unchanged, citing that the “stated properties were not sufficiently comparable to prove inequity.”

SHRI then appealed to this Board. It reasserts its claim plainly stating that 1) the assessment is not equitable and 2) that the property is assessed for more than the value authorized by law. SHRI considers the properties actual total value to be \$766,951, thus seeking relief of \$127,599.

SHRI provided eleven assessments of other motel properties. None of these eleven properties were located within the assessment jurisdiction of Tama County disqualifying them as equity comparables. Further, none of these eleven properties were shown to have sold, disqualifying them as comparables to demonstrate that the subject property is assessed at more than market value.

Dharmendra Patel, President of SHRI and Atul Patel, an investor, both testified on behalf of SHRI. Dharmendra testified that none of the properties submitted by SHRI as comparables were located within the county of Tama or within the cities of Tama-Toledo. When questioned as to why the Designer Inn, a similar size hotel/motel property located next door to the subject property was not included for analysis, Dharmendra cited differences in the standards of operations as the motivating factor for not considering this particular property.

Atul Patel also testified on behalf of SHRI. The SHRI property is a Super 8 franchise. Atul testified that he believed there were significant differences between a Super 8 franchise and the Designer Inn, which was originally built as a Days Inn (Wyndam) franchise, thus they were not comparable properties. Differences cited included that the Designer Inn has a different clientele base, partly due to featuring an indoor pool and some themed suites. Mr. Atul also provided a statement of

revenue and expense data, but this was incomplete and, as such, given minimal consideration by this Board.

While we found both Dharmendra and Atul to be honest in their testimony, no properties within the assessment jurisdiction were presented as equity comparables, additionally neither spoke to the current market value of the SHRI property. Nor was any information presented clearly documenting a market value of the property as of January 1, 2009.

Jerry Witt, Tama County Assessor testified on behalf of the Board of Review. Mr. Witt testified that a re-evaluation of commercial property was conducted in 2009, resulting in an across the board adjustment, equating to roughly a 10% reduction, on average, to properties in this classification. Mr. Witt testified that the primary approach to value considered was the cost approach, but that when possible other comparable properties are also taken into consideration. Mr. Witt indicated that the only comparable considered in his valuation of the subject property was the Designer Inn, located approximately one block from the subject property. Both the Designer Inn and the SHRI property (Super 8) offer similar units (40 and 43 respectively) and were both built in the same time-frame (roughly 1 year apart). Income was not a factor, as the assessor is not privy to actual income data for these properties.

Mr. Witt testified that there is a nominal difference between the assessments on both the Designer Inn and the SHRI property. Information presented by Mr. Witt, and shown in the chart below shows the Designer Inn carries the higher assessments overall and on a per unit basis.

	<u># of units</u>	<u>Year Built</u>	<u>Total Assessed Value</u>	<u>Assessed Value p/Unit</u>
Designer Inn	43	1994	\$917,020	\$18,990
SHRI (Super 8)	49	1993	\$894,550	\$17,040

As the only property within the assessment jurisdiction that could be considered as an equity comparable, SHRI's inequity complaint is not supported. Mr. Witt testified that there were other hotel/motels within the assessment jurisdiction, however they were significantly older, differently designed and in poor condition, and therefore not considered as "comparable" to the subject. We find Mr. Witt to be credible and honest in his testimony.

No testimony, from either side, was made in regards to the market value approach of the subject property as of January 1, 2009.

We find that evidence submitted by the Tama County Board of Review is the most credible and demonstrates that the subject is equitably assessed. We also note that only one comparable property cannot establish inequity as a matter of law, further there was no evidence submitted by SHRI to demonstrate that the current assessed valuation of \$894,550 as of January 1, 2009, is incorrect. Based upon the foregoing, the Appeal Board finds that SHRI has failed to provide sufficient evidence to support its claims.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment*

Appeal Bd., 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). SHRI's evidence of inequity did not consider any properties located within the assessment jurisdiction of the subject property. The Iowa Supreme Court has interpreted "representative number of comparable properties" to be more than one property.

Maxwell v. Shiver, 257 Iowa 575, 581, 133 N.W.2d 709, 712 (1965). This "statutory requirement is both a jurisdictional prerequisite and an evidentiary requirement for bringing a claim of inequitable or discriminatory assessment before the board." *Montgomery Ward Dev. Corp. by Ad Valorem Tax, Inc. v. Cedar Rapids Bd. of Review*, 488 N.W.2d 436, 441 (Iowa 1992). Furthermore, the word "shall" as used in the statute makes the listing of comparable properties mandatory as failing to do so would "directly frustrate[] the sole function of the requirement, which is to enable the board to make a preliminary determination on the matter of equitability of assessment." *Id.*

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). SHRI failed to provide this Board with evidence that the current assessed valuation of \$894,500 is more market value.

In the opinion of the Appeal Board, the evidence does not support the claims that the property's assessment is not equitable with like properties or assessed for more than the value authorized by Iowa

Code section 441.21. We therefore affirm the assessment of the SHRI Vakratunda Motel, Inc., property as determined by the Tama County Board of Review as of January 1, 2009.

THE APPEAL BOARD ORDERS the assessment of the SHRI property located at 207 Highway 30 West, Toledo, Iowa, of \$894,550 as of January 1, 2009, set by the Tama County Board of Review, is affirmed.

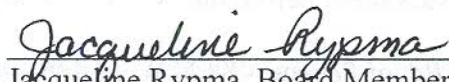
Dated this 21 day of October, 2009



Karen Oberman, Presiding Officer



Richard Stradley, Board Member



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Cc:

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Certificate of Service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on 10-21, 2009

By: ☒ U.S. Mail ☐ FAX
☐ Hand Delivered ☐ Overnight Courier
☐ Certified Mail ☐ Other

Signature

